

Remarks

Claims 2-7, 11-13, 24, and 30-34 are presented for the Examiner's review and consideration. In this response, claims 2-7, 11-13, 24, and 30-34 are cancelled, and claims 35-54 are added. Additionally, the subject matter of the withdrawn claims has been included in new claims 41-42, and 46-50, which depend from new claim 35.

Applicants believe the claim amendments and remarks herein serve to clarify the present invention, and are independent of patentability. No new matter has been added. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

Examiner Interview

Applicant appreciates the courtesy extended to Applicant's representatives, Paul D. Bianco and Gary S. Winer. In a teleconference on March 23, 2009, between the Examiner and Gary S. Winer, it was agreed to amend the claims as provided herein, in order to overcome pending rejections pertaining to §101 and §112, and to clarify the invention. Applicant respectfully submits that this Response satisfies the requirements of MPEP §713.04.

35 U.S.C. §101 Rejections

Claims 1-7, 10-13, 16, 19, and 23-28 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The cited claims have been herein cancelled, rendering the rejection as to the claims moot. Applicant submits that the new claims, including independent claims 35 and 54, comply with the requirements of §101.

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §101 rejections.

35 U.S.C. §112 Rejections

Claims 1-7, 10-13, 16, 19, and 23-27 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The cited claims have been herein cancelled, rendering the rejection as to the claims moot. Applicant submits that the new claims, including independent claims 35 and 54, comply with the requirements of §112.

In light of the foregoing, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112 rejections.

35 U.S.C. §103 Rejections

Claims 1-7, 10-13, 16, 19, and 23-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Stewart (US Patent 6,195,103 B1). The cited claims have been herein cancelled, rendering the rejection as to the claims moot. However, Applicant has added new claims 35-54. In response, Applicants respectfully submit that this rejection should be withdrawn.

Reference may be had to substantive remarks filed December 5, 2008, with respect to this §103 rejection. In this Supplemental Response, new claims 35-54 incorporate previously claimed subject matter. Further, in response to the above-referenced Interview, Applicant has incorporated subject matter of claims 3, 4 and 30 within new claim 35. Claim 54 incorporates the subject matter of claim 35, for a program product.

For the foregoing reasons, it is respectfully submitted that new claims 35 and 54 are patentable over Stewart. As claims 36-53 depend from Claim 35, these dependent claims necessarily include all the elements of their base claim. Accordingly, Applicant respectfully submits that the dependent claims are allowable over Stewart at least for the same reasons.

In light of the foregoing, Applicant requests reconsideration and withdrawal of the section 103 rejections.

Conclusion

The foregoing, together with the response submitted December 5, 2008, are submitted as a full and complete response to the Official Action mailed November 5, 2008, and it is suggested that Claims 35-54 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of Claims 35-54 is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued that such amendment was made to distinguish over a particular reference or combination of references.

Applicants acknowledge the continuing duty of candor and good faith to disclose information known to be material to the examination of this application. In accordance with 37 CFR § 1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and the attorneys.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (305) 830-2600 is respectfully solicited.

No fees are believed to be due. However, the Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No. 500601 (Docket No. 739-X01-005).

In view of the preceding discussion, it is submitted that the claims are in condition for allowance. Reconsideration and re-examination are requested. Respectfully submitted,

Respectfully submitted,

/ Gary S. Winer /

Gary S. Winer, Reg. # 31,806 for
Paul D. Bianco, Ph.D., Reg. # 43,500

Customer Number: 27317
FLEIT GIBBONS GUTMAN BONGINI & BIANCO P.L.
21355 East Dixie Highway, Suite 115
Miami, Florida 33180
Tel: 305-830-2600; Fax: 305-830-2605
e-mail: pbianco@fggbb.com